

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CYNTHIA COLEMAN,)	CASE NO. 1:16-cv-0179
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	MAGISTRATE JUDGE
)	THOMAS M. PARKER
COMMISSIONER OF SOCIAL)	
SECURITY ADMINISTRATION)	<u>ORDER ADOPTING REPORT</u>
)	<u>AND RECOMMENDATION</u>
Defendant.)	

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge Thomas M. Parker (Docket #15). On January 26, 2016, Plaintiff, Cynthia Coleman, filed her Complaint challenging the Defendant, Commissioner of Social Security Administration's, decision to deny her application for Disability Insurance Benefits ("DIB") and Supplemental Security Income ("SSI") under Titles II and XVI of the Social Security Act ("Act"). Pursuant to Local Rule 72.2(b), the case was referred to Magistrate Judge Parker.

On November 29, 2016, the Magistrate Judge issued his Report and Recommendation. The Magistrate Judge found the Commissioner's decision denying DIB and SSI to be supported by substantial evidence in the record. Further, the Magistrate Judge found that the finding of the Plaintiff's residual functional capacity was substantially supported by the medical and non-medical evidence submitted. The Magistrate Judge also found that the Plaintiff failed to establish that the court should grant a Sentence Six remand¹ because she failed to show that new evidence submitted with the appeal was material or that she had good cause for failing to submit

¹ Sentence Six of 42 U.S.C. § 405(g).

the new evidence. Accordingly, the Magistrate Judge recommends that the Commissioner's decision be affirmed. Objections to the Report and Recommendation were to be filed within fourteen days of service. No objections were filed.

Standard of Review for a Magistrate Judge's Report and Recommendation

The applicable standard of review of a magistrate judge's report and recommendation depends on whether objections were made to that report. When objections are made to a report and recommendation of a magistrate judge, the district court reviews the case de novo. FED. R. Civ. P. 72(b) states:

The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

The text of Rule 72(b) addresses only the review of reports to which objections have been made; it does not indicate the appropriate standard of review for those reports to which no objections have been properly made. The Advisory Committee on Civil Rules commented on a district court's review of *unopposed* reports by magistrate judges. In regard to subsection (b) of Rule 72, the advisory committee stated: "When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." FED. R. CIV. P. 72 advisory committee's notes (citation omitted).


The U.S. Supreme Court stated in *Thomas v. Arn*, 474 U.S. 140, 150 (1985): "It does not appear that Congress intended to require district court review of a magistrate judge's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings."

Conclusion

The Court has carefully reviewed the Report and Recommendation and agrees with the findings set forth therein. The Report and Recommendation of Magistrate Judge Parker (Docket #15) is ADOPTED. The decision of the Commissioner denying Plaintiff's request for Disability Insurance Benefits and Supplemental Security Income is AFFIRMED. Plaintiff's request that the case be reversed and remanded is DENIED.

IT IS SO ORDERED

DATED: February 14, 2017



DONALD C. NUGENT
United States District Judge